

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

PETITION FOR HEARING ON
NATURALIZATION APPLICATION
UNDER 8 U.S.C. § 1447(b)

RECEIVED-CLERK
U.S. DISTRICT COURT
2007 AUG 30 PM 2 00

Rabih Dollari,

CIVIL ACTION NO.

Plaintiff,

vs.

07-4165 (WJM)

Michael Chertoff, Secretary of the department
Of Homeland Security;
Emilio T. Gonzalez, Director of U.S. Citizenship
And Immigration Services (CIS);
John E. Thompson, New Jersey District Director,
U.S. Citizenship and Immigration Services (CIS);
Robert S. Mueller, Director of Federal Bureau of
Investigation.
Alberto R. Gonzales, Attorney General.
Christopher J. Christie, United States Attorney for
The district of New Jersey;

Defendants.

COMPLAINT

COME NOW Rabih Dollari, Plaintiff in the above-styled and numbered cause and for cause of action would show unto the Court the following:

1. This action is brought for a hearing to decide Plaintiff's naturalization application due to Defendants' failure to adjudicate the application within 120 days after the first examination in violation of the Immigration and Nationality Act ("INA") § 336(b) and 8 U.S.C. §1447(b).

PARTIES

PLAINTIFF,

Rabih Dollari, 155 Baldwin Street, Bloomfield, New Jersey, 07003, Cell: (973) 851-3422
Office: (201) 378-1245, Home: (973) 743-8636

DEFENDANTS

Michael Chertoff, Secretary of the Department of Homeland Security, Office of General Counsel U.S. Department of Homeland Security, Washington, D.C. 20528

Emilio T. Gonzalez, Director of U.S. Citizenship and Immigration Services (CIS)
20 Massachusetts Avenue, NW Washington, D.C. 20529

John E. Thompson, New Jersey District director, U.S. Citizenship and Immigration Services (CIS), 970 Broad Street, 11th Floor, Newark, New Jersey, 07102

Robert S. Mueller, Director of Federal Bureau of Investigation, 935 Pennsylvania Ave
Washington, DC, 20535

Alberto R. Gonzales, U.S. Department of justice, Office of the Attorney General, 950
Pennsylvania Avenue, NW Washington, DC, 20530-0001

Christopher J. Christie, Office of the US Attorney, 970 Broad Street, 7th Floor Newark,
New Jersey, 07102

1. Plaintiff Rabih Dollari is a lawful permanent resident of the United States. Plaintiff filed the N-400 Application for Naturalization in October 13th 2005 (**Exhibit 1**) and was interviewed for his naturalization on April 25th, 2006. Plaintiff passed the English and history test and was informed by the interviewing officer that his National security clearance (Name check) is still pending and was given an N-652 Document (**Exhibit 2**). Defendants have failed to make a decision on the application within 120 days after the examination.

2. Defendant Michael Chertoff is the secretary of the Department of Homeland Security (DHS), and this action is brought against him in his official capacity. He is generally

charged with enforcement of the Immigration and Nationality Act, and is further authorized to delegate such powers and authority to subordinate employees of the DHS.

8 U.S.C. §1103(a); 8 C.F.R. §2.1.

3. Defendant Emilio T. Gonzalez is the Acting Director of the United States Citizenship and Immigration Services (USCIS), an agency within the DHS to whom the Secretary's authority has in part been delegated and is subject to the Secretary's supervision.

Defendant Gonzalez is generally charged with the overall administration of benefits and immigrations services. 8 C.F.R. § 100.2.

4. Defendant John E. Thompson, New Jersey District Director, is an official of the USCIS generally charged with supervisory authority over all operations of the USCIS within the District with certain specific exceptions not relevant here. 8 C.F.R. §100.2(d)(2)(ii). As will be shown, Defendant Thompson is the official with whom plaintiff's naturalization application remains pending.

5. Defendant Robert S. Mueller, is the Director of the Federal Bureau of Investigation (FBI), the law enforcement agency that conducts security clearances for other U.S. Government agencies, such as the Department of State. As will be shown, Defendant has failed to complete the security clearance on Plaintiff's case.

6. Defendant Alberto R. Gonzales, Attorney General is the official in charge of supervisory authority over the Citizenship and Immigrations Services. The Statute confers on the Attorney General the "Sole Authority to naturalize persons as citizens of the United States." 8 U.S.C §1421.

7. Defendant Christopher J, Christie, United States Attorney for the district of New Jersey. His office is responsible through its Civil Division, with defending agencies of the

United States, enforcing regulatory agencies' authority, and recovering funds from violators of U.S. criminal, regulatory, and civil laws.

JURISDRICTION

Jurisdiction in this case is proper under the INA §336(b) and 8 U.S.C. §1447(b). Relief is requested pursuant to said statutes.

VENUE

Venue is proper in this court, pursuant to 8 U.S.C. §1447(b), in that plaintiff may request a hearing on the matter in the District Plaintiff resides.

CAUSE OF ACTION

Plaintiff is a lawful permanent resident (A# 046-960-303) of the United States and a respectful member of the community. An NJIT Graduating in Electrical Engineering and a current Engineer for a respectful company. Plaintiff files a N-400, Application for Naturalization with the U.S. Citizenship and Immigration Services and was interviewed by USCIS' Newark, New Jersey on April 25th, 2006. **(Exhibit 2).**

Since then, he has tried to contact USCIS several times by taking an appointment and by calling the data center. Based letters dated 06-12-2006 **(Exhibit 3)** and 06-01-2007 **(Exhibit 4)** and 08-08-2007 **(Exhibit 5)** from USCIS Newark office, Plaintiff was informed that his Application of Naturalization is still pending for the completion of National Security Clearance (Name Check).

Plaintiff's application for naturalization has remained un-adjudicated for more than a year and a half from the date of the interview.

Defendants have sufficient information to determine Plaintiff's eligibility pursuant to

applicable requirements.

Defendants in violation of 8 U.S.C. §1446 have failed to make a determination on plaintiff's naturalization application within 120-day after the date of examination.


Plaintiff has been contacted on numerous occasions by the US Army to serve as a contract linguist, and he applied to assist the FBI using his fluency in Arabic, Lebanese and French languages. Failure of the defendants to adjudicate his case forestalls his acceptance for such positions or any other positions in his field that requires Citizenship status due to his lack of citizenship.

DEMAND

WHEREFORE, in view of the arguments and authority noted herein, Plaintiff respectfully requests that the defendants be cited to appear herein and that, upon due consideration, the court enter an order adjudicating the naturalization application. In the alternative, the court may remand requiring Defendants to immediately adjudicate Plaintiff's naturalization application. In addition, Plaintiff requests an award of reasonable attorney's fees under the Equal Access to Justice Act and such other relief at law in equity as justice may require.

DATE: 08/28/2007

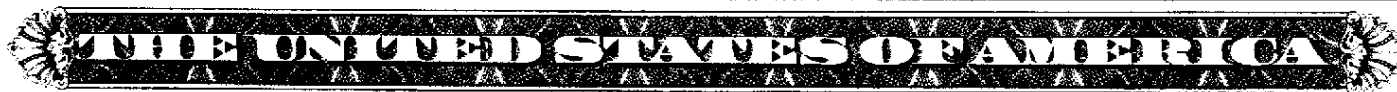
Respectfully Submitted



Rabih Dollari

LIST OF ATTACHEMETNS

| <i>Exhibit</i> | <i>Description</i> |
|----------------|--|
| 1 | Application for Naturalization I-797C, Notice of action. |
| 2 | N-652 Naturalization interview results date April 25 th 2006. |
| 3 | Inquiries response regarding status dated 06-12-2006. |
| 4 | Inquiries response regarding status dated 06-01-2007. |
| 5 | Inquiries response regarding status dated 08-08-2007. |
| 6 | Copy of email sent to the US Attorney office and response Not read. |
| 7 | I-797C Finger Prints Application dated 11-23-2005. |



| | | | |
|---|--|--|--|
| Receipt | | | NOTICE DATE October 20, 2005 |
| CASE TYPE N400 Application For Naturalization | | | INS A# A 046 960 303 |
| APPLICATION NUMBER ESC*001504685 | RECEIVED DATE October 13, 2005 | PRIORITY DATE October 13, 2005 | PAGE 1 of 1 |

APPLICANT NAME AND MAILING ADDRESS
RABIH DOLLARI
155 BALDWIN ST
BLOOMFIELD NJ 07003

PAYMENT INFORMATION:
Single Application Fee: \$390.00
Total Amount Received: \$390.00
Total Balance Due: \$0.00

|||||

The above application has been received by our office and is in process. Our records indicate your personal information is as follows:

Date of Birth: March 21, 1982
Address Where You Live: 155 BALDWIN ST
BLOOMFIELD NJ 07003

Please verify your personal information listed above and immediately notify our office at the address or phone number listed below if there are any changes.

You will be notified of the date and place of your interview when you have been scheduled by the local INS office. You should expect to be notified within 365 days of this notice.

If you have any questions or comments regarding this notice or the status of your case, please contact our office at the below address or customer service number. You will be notified separately about any other cases you may have filed.

If you have other questions about possible immigration benefits and services, filing information, or INS forms, please call the INS National Customer Service Center (NCSC) at 1-800-375-5283. If you are hearing impaired, please call the NCSC TDD at 1-800-767-1833.

If you have access to the Internet, you can also visit INS at www.ins.usdoj.gov. Here you can find valuable information about forms and filing instructions, and about general immigration services and benefits. At present, this site does not provide case status information.

INS Office Address:
US IMMIGRATION AND NATURALIZATION SERVICE
75 LOWER WELDEN STREET
ST ALBANS VT 05479-

INS Customer Service Number:
(800) 375-5283

APPLICANT COPY

ESC001484493

A standard 1D barcode representing the case number ESC001484493.

Department of Homeland Security
U.S. Citizenship and Immigration Services

N-652, Naturalization Interview Results

A#: 046460303

On April 25, 2006, you were interviewed by USCIS officer O'Donnell

- ☒ You passed the tests of English and U.S. history and government.
- ☐ You passed the tests of U.S. history and government and the English language requirement was waived.
- ☐ USCIS has accepted your request for a Disability Exception. You are exempted from the requirement to demonstrate English language ability and/or a knowledge of U.S. history and government.
- ☐ You will be given another opportunity to be tested on your ability to _____ speak/ _____ read/ _____ write English.
- ☐ You will be given another opportunity to be tested on your knowledge of U.S. history and government.
- ☐ Please follow the instructions on Form N-14.
- ☐ USCIS will send you a written decision about your application.
- ☐ You did not pass the second and final test of your _____ English ability/ _____ knowledge of U.S. history and government. You will not be rescheduled for another interview for this Form N-400. USCIS will send you a written decision about your application.
- A) **Congratulations! Your application has been recommended for approval.** At this time, it appears that you have established your eligibility for naturalization. If final approval is granted, you will be notified when and where to report for the Oath Ceremony.
- B) **A decision cannot yet be made about your application.**

It is very important that you:

- ☒ Notify USCIS if you change your address.
- ☒ Come to any scheduled interview.
- ☒ Submit all requested documents.
- ☒ Send any questions about this application in writing to the officer named above. Include your full name, Alien Registration Number (A#), and a copy of this paper.
- ☒ Go to any Oath Ceremony that you are scheduled to attend.
- ☒ Notify USCIS as soon as possible in writing if you cannot come to any scheduled interview or Oath Ceremony. Include a copy of this paper and a copy of the scheduling notice.

NOTE: Please be advised that under section 336 of the Immigration and Nationality Act, you have the right to request a hearing before an immigration officer if your application is denied, or before the U.S. district court if USCIS has not made a determination on your application within 120 days of the date of your examination.

** pending National Security Background Clearance*



U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

970 Broad Street
Newark, NJ 07102

Name, Robin Dollari

155 Baldwin St.

Bloomfield, NJ, 07003

FILE #: A 46960 303

DATE: 6-12-06

☒ [X] RESPONSE TO YOUR LETTER OF INQUIRY REGARDING YOUR CASE STATUS.

☐ [] REQUEST FOR ADDITIONAL INFORMATION TO RESPOND TO YOUR LETTER OF INQUIRY.

☐ YOUR ADDRESS WILL BE UPDATED

☐ ADJUDICATING OFFICER REQUESTED DOCUMENTS.

☐ CASE HAS BEEN ADMINISTRATIVELY. PLEASE COMPLETE AND RETURN THE REOPEN REQUEST.

☐ CASE IS DENIED APPLICANT NEEDS TO RE-APPLY FOR CITIZENSHIP.

☐ CASE CURRENTLY PENDING, YOU MUST WAIT TO RECEIVE AN APPOINTMENT LETTER SPECIFYING THE DATE AND TIME OF YOUR ☐ N600 INTERVIEW ☐ N400 INTERVIEW ☐ N565 INTERVIEW ☐ OATH NOTICE

☐ CASE HAS BEEN APPROVED, YOU MUST WAIT TO RECEIVE THE DECISION.

☐ CASE IS PENDING, YOU MUST WAIT TO RECEIVE AN APPOINTMENT LETTER SPECIFYING THE DATE AND TIME FOR THE FINGERPRINT APPOINTMENT.

☐ FINGERPRINTS ARE EXPIRED. RESCHEDULED FOR

☒ ~~PENDING THE NATIONAL SECURITY CHECK RESPONSE FROM VARIOUS AGENCIES.~~

☐ PROVIDE YOUR ALIEN REGISTRATION NUMBER.

☐ PROVIDE YOUR DATE OF BIRTH.

☐ PROVIDE THE NAME OF THE APPLICATION YOU FILED AND THE FORM NUMBER.

☐ PROVIDE PROOF OF PAYMENT FOR THE N400 APPLICATION: COPY OF THE FRONT AND BACK OF THE CANCELLED CHECK OR A TRACER OF THE MONEY ORDER SHOWING PAYMENT WAS RECEIVED BY USDHS. WITHIN 30 DAYS OF THIS NOTICE

☐ PLEASE BE ADVISED THAT YOU WILL BE NOTIFIED BY MAIL

6-325 Pending.

Andrea J. Quarantillo
District Director

U.S. Department of Homeland Security

Peter Rodino Federal Building
970 Broad Street
Newark, NJ 07102



**U.S. Citizenship
and Immigration
Services**

Tuesday, June 5, 2007

RABIH DOLLARI
155 BALDWIN ST
BLOOMFIELD NJ 07003

Dear RABIH DOLLARI:

On 06/01/2007 you, or the designated representative shown below, contacted us about your case. Some of the key information given to us at that time was the following:

| | |
|---|---------------------------------|
| Caller indicated they are: | Applicant or Petitioner |
| Attorney Name: | Information not available |
| Case type: | N400 |
| Filing date: | Information not available |
| Receipt #: | ESC*001504685 |
| Beneficiary (If you filed for someone else): | DOLLARI, RABIH |
| Your USCIS Account Number (A-number): | A046960303 |
| Type of service requested: | Outside Normal Processing Times |

The status of this service request is:

The processing of your case has been delayed. A check of our records establishes that your case is not yet ready for decision, as the required investigation into your background remains open.

Until the background investigation is completed, we cannot move forward on your case. These background checks are required to be completed on all applicants who apply for the immigration benefit you are seeking. We will make every effort to make a decision on this case as soon as the background checks are complete. If you do not receive a decision or other notice of action from us within 6 months of this letter, please contact us by calling our customer service number provided below.

If you have any further questions, please call the National Customer Service Center at 1-800-375-5283.

Please remember: By law, every person who is not a U.S. citizen and who is over the age of 14 must also notify the Department of Homeland Security within 10 days from when they move (persons in "A" or "G" nonimmigrant status are exempt from this requirement). If you have moved, please complete a Form AR-11 and mail it to the address shown on that form. If you do not have this form, you can download it from our website or you can call the National Customer Service Center at 1-800-375-5283 and we can order one for you. If you move, please call us with your new address information as soon as your move is complete. If you have already called us and given us this information, you do not need to call again.

U.S. Citizenship and Immigration Services

U.S. Department of Homeland Security

Peter Rodino Federal Building

970 Broad Street

Newark, NJ 07102



**U.S. Citizenship
and Immigration
Services**

Friday, August 10, 2007

RABIH DOLLARI
155 BALDWIN STREET
BLOOMFIELD NJ 07003

Dear Rabih Dollari:

On 08/08/2007 you, or the designated representative shown below, contacted us about your case. Some of the key information given to us at that time was the following:

| | |
|---|---------------------------------|
| Caller indicated they are: | Applicant or Petitioner |
| Attorney Name: | Information not available |
| Case type: | N400 |
| Filing date: | 10/13/2005 |
| Receipt #: | ESC*001504685 |
| Beneficiary (if you filed for someone else): | Information not available |
| Your USCIS Account Number (A-number): | A046960303 |
| Type of service requested: | Outside Normal Processing Times |

The status of this service request is:

The processing of your case has been delayed. A check of our records establishes that your case is not yet ready for decision, as the required investigation into your background remains open.

Until the background investigation is completed, we cannot move forward on your case. These background checks are required to be completed on all applicants who apply for the immigration benefit you are seeking. We will make every effort to make a decision on this case as soon as the background checks are complete. If you do not receive a decision or other notice of action from us within 6 months of this letter, please contact us by calling our customer service number provided below.

If you have any further questions, please call the National Customer Service Center at 1-800-375-5283.

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U.S. Citizenship and Immigration Services

YAHOO! MAIL

Print - Close Window

Date: Mon, 13 Aug 2007 14:59:09 -0400
From: Fedinfo@mail.fedinfo.gov
Subject: RE: Attorney General's office. Lawsuit Filing. [T20070813006R]
To: rdollari@yahoo.com

Thank you for your inquiry.

Your message was forwarded to us for response from the U.S. Department of Justice (USDOJ).

As the Federal Citizen Information Center, our mission is to provide federal information and referrals to the public.

We have reviewed your message regarding the civil action lawsuit you are filing; however, we believe your inquiry may be best addressed by a lawyer; the staff in our office is not qualified to give legal advice. While there is no Federal agency that provides private legal assistance, the Legal Services Corporation (LSC) does fund locally-based legal aid services to persons in financial need. To find the nearest LSC program, please choose your state and county information at:

<http://www.rln.lsc.gov/scripts/LSC/PD/PDLlist/.asp>

Should you need to contact the LSC headquarters directly, you may do so at:

Legal Services Corporation
3333 K St. NW, 3rd Floor
Washington, DC 20007-352250
Telephone: 202-295-1500
Fax: 202-337-6797
E-mail: info@lsc.gov
Webform: <http://www.lsc.gov/about/contact.php>

If you are not eligible for legal assistance through the LSC, you may obtain a lawyer referral from the Lawyer Referral Service (LRS) program provided by your local State Bar Association office. The LRS will match you with a lawyer based upon your specific legal need. To access a directory of LRS programs by state, please visit:
<http://www.abanet.org/legal services/lris/directory/>

Depending on your e-mail settings, you may need to copy and paste the suggested web addresses into your browser's address bar. If any web address spans two lines or more of text when you receive this message, please copy and paste all parts of the web address.

We hope you find this information helpful.

We are unable to accept replies sent to our mailbox. If you have any additional questions, please call our National Contact Center at 1-800-FED-INFO (800-333-4636), Monday through Friday from 8 a.m. to 8 p.m Eastern Time, or visit us on the Web at <http://www.usa.gov/>.

Regards,
Federal Citizen Information Center

[MIS999] [MIS8000]

Sender: rdollari@yahoo.com
Tracking Number: T20070813006RZ597450
Pool: Misdirects-Dept. of Justice
Sent to: <agency@mail.fedinfo.gov>
Date: 8/13/2007 1:35 PM
Subject: Attorney General's office. Lawsuit Filing.

Dear Mr Alberto R. Gonzales,

My name is Rabih Dollari, I am in process of filing a Civil action lawsuit against several US Officials in the United States District Court, District of New Jersey, regarding the violation of the Immigration and Nationality Act ("INA") § 336(b) and 8 U.S.C. §1447(b). I was interviewed by UCSIS on April of 2006. The interviewing officer informed me that i have passed the English and History test, but my application is still pending National Security clearance (Name check). I have tried to get an Update several times from USCIS, The answer was No change of status. One of the USCIS officer told me it could take years, and when i asked about my civil rights and the Immigration and Nationality act, I was told that basically i have no Civil rights.

I am a respectful member of the community with no criminal background. I am an Engineer in a respectful company. The Violation of the Immigration and Nationality act in this case is clear. Failure to make determination within 120 days of the interview date. For more other reasons, i have decided to have the judge decide if i have civil rights as a Permanent Resident of the United States or not. If you can assist me in providing the correct information of where and who to serve the Summons so we can prevent unreasonable cost. or if you could assist me in resolving this matter without legal actions, it will be much appreciated.

The lawsuit includes the following officials,

Alberto R. Gonzales, Attorney General;
Michael Chertoff, Secretary of the department
Of Homeland Security;
John E. Thompson, New Jersey District Director,
U.S. Citizenship and Immigration Services (CIS);
Emilio T. Gonzalez, Director of U.S. Citizenship
And Immigration Services (CIS);
Robert S. Mueller, Director of Federal Bureau of
Investigations.

Sincerely,

Rabih Dollari
973-851-3422



| | | | |
|---|--|--|--|
| Fingerprint Notification | | | NOTICE DATE October 29, 2005 |
| CASE TYPE N400 Application For Naturalization | | | INS A# A 046 960 303 |
| APPLICATION NUMBER ESC*001504685 | RECEIVED DATE October 13, 2005 | PRIORITY DATE October 13, 2005 | PAGE 1 of 1 |

| | | |
|--|--|--|
| APPLICANT NAME AND MAILING ADDRESS | | |
| RABIH DOLLARI 155 BALDWIN ST BLOOMFIELD NJ 07003 11/23/05 | | |

To process your application, INS must take your fingerprints and have them cleared by the FBI. **PLEASE APPEAR AT THE BELOW APPLICATION SUPPORT CENTER AT THE DATE AND TIME SPECIFIED.** If you are unable to do so, complete the bottom of this notice and return the entire original notice to the address below. **RESCHEDULING YOUR APPOINTMENT WILL DELAY YOUR APPLICATION. IF YOU FAIL TO APPEAR AS SCHEDULED BELOW OR FAIL TO REQUEST RESCHEDULING, YOUR APPLICATION WILL BE CONSIDERED ABANDONED.**

| | |
|--|-------------------------------------|
| APPLICATION SUPPORT CENTER | DATE AND TIME OF APPOINTMENT |
| INS NEWARK 24 COMMERCE STREET 2ND FLOOR NEWARK NJ 07102 | 11/23/2005 12:00 PM |

WHEN YOU GO TO THE APPLICATION SUPPORT CENTER TO HAVE YOUR FINGERPRINTS TAKEN, YOU MUST BRING:

- THIS APPOINTMENT NOTICE** and
- PHOTO IDENTIFICATION.** Naturalization applicants must bring their Alien Registration Card. All other applicants must bring a passport, driver's license, national ID, military ID, or State-issued photo ID. If you appear without proper identification, you will not be fingerprinted.

PLEASE DISREGARD THIS NOTICE IF YOUR APPLICATION HAS ALREADY BEEN GRANTED.

REQUEST FOR RESCHEDULING

Please reschedule my appointment for the next available: ☐ Wednesday afternoon ☐ Saturday afternoon

INS cannot guarantee the day preferred, but will do so to the extent possible.
Upon receipt of your request, you will be provided a new appointment notice. Please mail your request to:

INS NEWARK
24 COMMERCE STREET
2ND FLOOR
NEWARK NJ 07102

If you have any questions regarding this notice, please call 1-800-375-5283.

APPLICATION NUMBER
ESC*001504685

APPLICANT COPY

WARNING!

Due to limited seating availability in our lobby areas, only persons who are necessary to assist with transportation or completing the fingerprint worksheet should accompany you.